

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA

v.

ALLAN J. MACPHEE

Defendant.

CRIMINAL NO. 2007-55

ATTORNEYS:

Kim L. Chisholm, AUSA
St. Thomas, U.S.V.I.
For the plaintiff,

Charles Russell, Esq.
St. Thomas, U.S.V.I.
For the defendant.

ORDER

GÓMEZ, C.J.

In the Forfeiture Allegation of the Information in the above-captioned case, the United States sought forfeiture of property belonging to defendant Allan J. Macphee, pursuant to 31 U.S.C. § 5317(c)(1), as property involved in the offenses charged in Counts 18 through 20, or property traceable thereto.

On October 17, 2007, defendant Allan J. Macphee, pled guilty to Counts Three, Eight, Ten and Eighteen of the Information, and entered into a Plea and Forfeiture Agreement. Count Eighteen charged him with knowingly structuring currency transactions, in violation of 31 U.S.C. § 5324(a)(3).

WHEREFORE, by virtue of said guilty plea and the referenced Plea and Forfeiture Agreement, the United States is now entitled to possession of said property pursuant to 31 U.S.C. § 5317(c)(1) and Rule 32.2(b) of the Federal Rules of Criminal Procedure, the Court having determined that the United States has established the requisite nexus between such property and such offenses.

It is hereby **ORDERED**:

That the following property belonging to defendant Allan J. Macphee shall be forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n):

1. Money Judgment

A sum of money equal to \$223,117.00 in United States currency, representing the amount of money involved in the structuring offense, to be offset by the forfeiture of any specific property, including the following:

2. Real Property

Parcel #16A-7 Remainder and 16A-7A Estate Mandahl, Coral Bay Quarter, St. John, U.S. Virgin Islands consisting of .362 acre(s) +/- and .353 acre(s) +/- respectively, as shown on PWD # /0LG D9-5080-T91 and tax map #3-08603-0207-00 and #3-08603-0209-00 respectively.

3. Conveyance

2004 silver Toyota Tacoma with vehicle identification number (VIN) 5TEWN72N14Z415508 and USVI license plate TBY-222.

It is further **ORDERED**:

1) That the United States, the U.S. Marshal Service, or its custodian, shall immediately seize the forfeited property and conduct any proper discovery in identifying, locating or disposing of said property in accordance with Fed. R. Crim. P. 32.2(b)(3);

2) That the U. S. Marshal Service shall record a copy of this Order in the property records of the Office of the Lieutenant Governor, District of St. Thomas-St. John, Virgin Islands, which Order, when recorded, shall serve as notice to any transferee or potential transferee, of the right, title and interest of the United States of America;

3) That, pursuant to 21 U.S.C. § 853(n)(1), the United States shall publish once a week for four consecutive weeks in a newspaper of general circulation, notice of this Order, notice of the Marshal's intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the defendant, having or claiming a legal interest in any of the above-listed forfeited property must file a petition with the court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier.

This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in each of the forfeited properties and any additional facts supporting the petitioner's claim and the relief sought;

4) That the United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in property that is the subject of this Preliminary Order of Forfeiture, as a substitute for published notice as to those persons so notified;

5) That, in entering in this agreement with respect to forfeiture, defendant Allan J. Macphee knowingly, voluntarily, and intelligently waives any challenge to the above-described forfeiture based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution, and specifically acknowledges that the above-identified properties constitute all property involved in or traceable to offenses involving a violation of 31 U.S.C. § 5324(a)(3).

6) That, pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order of Forfeiture is final as to the defendant, and shall be made part of the sentence and included in the judgment;

7) That following the Court's disposition of all petitions filed, or if no such petitions are filed within the time prescribed by law, upon proof of publication and proof of notice to any persons known to have alleged an interest in the property, the United States shall have clear title to the property and may warrant good title to any subsequent purchaser or transferee;

8) That the Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e); and

9) That the Clerk of the Court shall forward four certified copies of this Order to Assistant U.S. Attorney Kim L. Chisholm, U.S. Attorney's Office, District of the Virgin Islands.

Dated: December 20, 2007

S_____
CURTIS V. GÓMEZ
Chief Judge

Copy: Hon. Geoffrey W. Barnard
Kim L. Chisholm, AUSA
Charles Russell, Esq.
U.S. Probation Office
U.S. Marshals
Lydia Trotman
Claudette Donovan
Olga Schneider
Gregory F. Laufer